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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,954	11/14/2003	Charles W. Sears	2485-A (GP-02-16A)	2888
40256	7590	04/06/2004	EXAMINER	
FERRELLS, PLLC			STERLING, AMY JO	
P. O. BOX 312				
CLIFTON, VA 20124-1706			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 10/713,954	Applicant(s) SEARS ET AL.	
	Examiner Amy J. Sterling	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/14/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for application number 10/357,781, Quick Release Base and mounting Bracket for Napkin Dispenser, filed on. Claims 27-46 are pending.

Information Disclosure Statement

The information disclosure statement submitted on 1/28/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 27-46 are rejected under the judicially created doctrine of double patenting over claims 1-26 of U. S. Patent No. 6669162 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Claims correspond to the list below:

Application 10/713,954	Patent No. 669162
Claim 27	1
28	2
29	3
30	4
31	5
32	6
33	7
34	8
35	9
36	10
37	11
38	12
39	13
40	14
41	18
42	19
43	20
44	21
45	22
46	8

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Allowable Subject Matter

Claims 27-46 are allowed pending a proper filing of a terminal disclaimer.

The reason is that the prior art does not show a quick release base and bracket having a base with an upper surface and side walls extending downwardly therefrom defining a hollow cavity and a step locking process having an upper portion with a first recessed width and a lower portion with a second recessed width wherein the upper locking recessed width is smaller than the lower locking recessed width, and a plurality of projections disposed in the hollow cavity having a locking shoulder thereon each of which has a characteristic locking shoulder width, a mounting bracket having a means for securing to the countertop and a raised central locking surface provided with a moveable tongue, the tongue being provided with a step outer profile defining an outer width which is less than or equal to the upper recessed width of the base and a locking width which is greater than the upper recess width of the base, the locking surface being further provided with a plurality of locking slots with open portions having widths at least as great as the corresponding characteristic widths of the locking shoulders of the locking projections of the base/

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached

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(M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
3/30/04



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER